IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 30TH MAY 2007 / 9TH JYAISHTA 1929

WP(C).No. 22476 of 2005(A)

AGAINST THE ORDER DATED 05/ 07/2005 IN EP.583/2003 IN OS.260/2000 of II ADDL.SUB COURT,THRISSUR

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PETITIONERS:

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1. NEVIN FRANCIS, S/O.FRANCIS,
   ELUVATHINGAL HOUSE, OLLUR VILLAGE,
   THRISSUR TALUK.

2. FRANCIS, RESIDING DO.

BY ADV. SRI.P.K.ANIL

RESPONDENTS:

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1. DOLLARS CHURCH KURIES & LOANS,
   THRISSUR.

2. THE STATE OF KERALA, REPRESENTED BY
   CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM.

R1 BY ADV. SRI.S.V.BALAKRISHNA IYER
SRI.K.JAYAKUMAR
SRI.P.B.KRISHNAN
R2 BY GOVERNMENT PLEADER SRI.SHYSON P.MANGUZHA.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

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W.P.(C) No.22476 OF 2005

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DATED THIS THE 30TH MAY, 2007

J U D G M E N T

Ext.P3 order by which the execution court granted adjournment of sale on condition that the petitioners-judgment-debtors pay a sum of Rs.75,000/- towards the decree-debt is impugned in this Writ Petition under Article 227 of the Constitution of India. This Court became inclined to continue the interim stay which was initially granted by imposing a still more onerous condition that the petitioners shall pay Rs.1,00,000/- within 40 days. It is not clear whether the above condition has been complied with by the petitioners. But Mr.P.B.Krishnan, learned counsel for the 1st respondent submits that the 1st respondent is interested only in recovering the decree-debt and is not at all keen in having the petitioners' property sold in auction. He has no serious objection in reasonable instalment facility being allowed to the petitioners for wiping off the decree-debt. The decree-debt as on date should be above Rs.Five Lakhs.

2. Under these circumstances, the Writ Petition itself is disposed of confirming Ext.P3 order, but however directing that the order of stay will continue on condition that the petitioners pay every month, commencing from 15.6.2007, at the rate of Rs.50,000/- till

such time as the entire decree-debt is wiped off. If the petitioners default remittance of any instalment, the impugned order will become operative and the property of the petitioners will be sold in auction.

(PIUS C. KURIAKOSE, JUDGE)

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